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HOUSE BILL 1507

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Seaquist, Bailey, Schual-Berke, Green, Kenney, Williams, Conway, Ericks, Lantz, Darneille, Linville, Moeller, Kelley, Morrell and Rolfes; by request of Governor Gregoire

Read first time 01/22/2007.                      Referred to Committee on State Government & Tribal Affairs.

1            AN ACT Relating to shared leave for state employees in the  
2 uniformed services; amending RCW 41.04.665; adding a new section to  
3 chapter 41.04 RCW; adding a new section to chapter 43.79 RCW; providing  
4 an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 41.04 RCW  
7 to read as follows:

8            (1) The uniformed service shared leave pool is created to allow  
9 employees to donate leave to be used as shared leave for any employee  
10 who has been called to service in the uniformed services and who meets  
11 the requirements of RCW 41.04.665. Participation in the pool shall, at  
12 all times, be voluntary on the part of the employee. The military  
13 department, in consultation with the department of personnel and the  
14 office of financial management, shall administer the uniformed service  
15 shared leave pool.

16            (2) Employees as defined in subsection (8) of this section who are  
17 eligible to donate leave under RCW 41.04.665 may donate leave to the  
18 uniformed service shared leave pool.

1 (3) An employee as defined in subsection (8) of this section who  
2 has been called to service in the uniformed services and is eligible  
3 for shared leave under RCW 41.04.665 may request shared leave from the  
4 uniformed service shared leave pool.

5 (4) Shared leave paid under this section, in combination with  
6 military salary, shall not exceed the level of the employee's state  
7 monthly salary.

8 (5) Any leave donated shall be removed from the personally  
9 accumulated leave balance of the employee donating the leave.

10 (6) An employee who receives shared leave from the pool is not  
11 required to recontribute such leave to the pool, except as otherwise  
12 provided in this section.

13 (7) Leave that may be donated or received by any one employee shall  
14 be calculated as in RCW 41.04.665.

15 (8) As used in this section:

16 (a) "Employee" has the meaning provided in RCW 41.04.655, except  
17 that "employee" as used in this section does not include employees of  
18 school districts and educational service districts.

19 (b) "Service in the uniformed services" has the meaning provided in  
20 RCW 41.04.655.

21 (c) "Military salary" includes base, specialty, and other pay, but  
22 does not include allowances such as the basic allowance for housing.

23 (d) "Monthly salary" includes monthly salary and special pay and  
24 shift differential, or the monthly equivalent for hourly employees.

25 "Monthly salary" does not include:

26 (i) Overtime pay;

27 (ii) Call back pay;

28 (iii) Standby pay; or

29 (iv) Performance bonuses.

30 (9) The department of personnel, in consultation with the military  
31 department and the office of financial management, shall adopt rules  
32 and policies governing the donation and use of shared leave from the  
33 uniformed service shared leave pool, including definitions of pay and  
34 allowances and guidelines for agencies to use in recordkeeping  
35 concerning shared leave.

36 (10) Agencies shall investigate any alleged abuse of the uniformed  
37 service shared leave pool and on a finding of wrongdoing, the employee

1 may be required to repay all of the shared leave received from the  
2 uniformed service shared leave pool.

3 (11) Higher education institutions shall adopt policies consistent  
4 with the needs of the employees under their respective jurisdictions.

5 **Sec. 2.** RCW 41.04.665 and 2003 1st sp.s. c 12 s 3 are each amended  
6 to read as follows:

7 (1) An agency head may permit an employee to receive leave under  
8 this section if:

9 (a)(i) The employee suffers from, or has a relative or household  
10 member suffering from, an illness, injury, impairment, or physical or  
11 mental condition which is of an extraordinary or severe nature; or

12 (ii) The employee has been called to service in the uniformed  
13 services;

14 (b) The illness, injury, impairment, condition, or call to service  
15 has caused, or is likely to cause, the employee to:

16 (i) Go on leave without pay status; or

17 (ii) Terminate state employment;

18 (c) The employee's absence and the use of shared leave are  
19 justified;

20 (d) The employee has depleted or will shortly deplete his or her:

21 (i) Annual leave and sick leave reserves if he or she qualifies  
22 under (a)(i) of this subsection; or

23 (ii) Annual leave and paid military leave allowed under RCW  
24 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

25 (e) The employee has abided by agency rules regarding:

26 (i) Sick leave use if he or she qualifies under (a)(i) of this  
27 subsection; or

28 (ii) Military leave if he or she qualifies under (a)(ii) of this  
29 subsection; and

30 (f) The employee has diligently pursued and been found to be  
31 ineligible for benefits under chapter 51.32 RCW if he or she qualifies  
32 under (a)(i) of this subsection.

33 (2) The agency head shall determine the amount of leave, if any,  
34 which an employee may receive under this section. However, an employee  
35 shall not receive a total of more than two hundred sixty-one days of  
36 leave, except that shared leave received under the uniformed service

1 shared leave pool in section 1 of this act is not included in this  
2 total.

3 (3) An employee may transfer annual leave, sick leave, and his or  
4 her personal holiday, as follows:

5 (a) An employee who has an accrued annual leave balance of more  
6 than ten days may request that the head of the agency for which the  
7 employee works transfer a specified amount of annual leave to another  
8 employee authorized to receive leave under subsection (1) of this  
9 section. In no event may the employee request a transfer of an amount  
10 of leave that would result in his or her annual leave account going  
11 below ten days. For purposes of this subsection (3)(a), annual leave  
12 does not accrue if the employee receives compensation in lieu of  
13 accumulating a balance of annual leave.

14 (b) An employee may transfer a specified amount of sick leave to an  
15 employee requesting shared leave only when the donating employee  
16 retains a minimum of one hundred seventy-six hours of sick leave after  
17 the transfer.

18 (c) An employee may transfer, under the provisions of this section  
19 relating to the transfer of leave, all or part of his or her personal  
20 holiday, as that term is defined under RCW 1.16.050, or as such  
21 holidays are provided to employees by agreement with a school  
22 district's board of directors if the leave transferred under this  
23 subsection does not exceed the amount of time provided for personal  
24 holidays under RCW 1.16.050.

25 (4) An employee of an institution of higher education under RCW  
26 28B.10.016, school district, or educational service district who does  
27 not accrue annual leave but does accrue sick leave and who has an  
28 accrued sick leave balance of more than twenty-two days may request  
29 that the head of the agency for which the employee works transfer a  
30 specified amount of sick leave to another employee authorized to  
31 receive leave under subsection (1) of this section. In no event may  
32 such an employee request a transfer that would result in his or her  
33 sick leave account going below twenty-two days. Transfers of sick  
34 leave under this subsection are limited to transfers from employees who  
35 do not accrue annual leave. Under this subsection, "sick leave" also  
36 includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1)  
37 with compensation for illness, injury, and emergencies.

1 (5) Transfers of leave made by an agency head under subsections (3)  
2 and (4) of this section shall not exceed the requested amount.

3 (6) Leave transferred under this section may be transferred from  
4 employees of one agency to an employee of the same agency or, with the  
5 approval of the heads of both agencies, to an employee of another state  
6 agency. However, leave transferred to or from employees of school  
7 districts or educational service districts is limited to transfers to  
8 or from employees within the same employing district.

9 (7) While an employee is on leave transferred under this section,  
10 he or she shall continue to be classified as a state employee and shall  
11 receive the same treatment in respect to salary, wages, and employee  
12 benefits as the employee would normally receive if using accrued annual  
13 leave or sick leave.

14 (a) All salary and wage payments made to employees while on leave  
15 transferred under this section shall be made by the agency employing  
16 the person receiving the leave. The value of leave transferred shall  
17 be based upon the leave value of the person receiving the leave.

18 (b) In the case of leave transferred by an employee of one agency  
19 to an employee of another agency, the agencies involved shall arrange  
20 for the transfer of funds and credit for the appropriate value of  
21 leave.

22 (i) Pursuant to rules adopted by the office of financial  
23 management, funds shall not be transferred under this section if the  
24 transfer would violate any constitutional or statutory restrictions on  
25 the funds being transferred.

26 (ii) The office of financial management may adjust the  
27 appropriation authority of an agency receiving funds under this section  
28 only if and to the extent that the agency's existing appropriation  
29 authority would prevent it from expending the funds received.

30 (iii) Where any questions arise in the transfer of funds or the  
31 adjustment of appropriation authority, the director of financial  
32 management shall determine the appropriate transfer or adjustment.

33 (8) Leave transferred under this section shall not be used in any  
34 calculation to determine an agency's allocation of full time equivalent  
35 staff positions.

36 (9) The value of any leave transferred under this section which  
37 remains unused shall be returned at its original value to the employee  
38 or employees who transferred the leave when the agency head finds that

1 the leave is no longer needed or will not be needed at a future time in  
2 connection with the illness or injury for which the leave was  
3 transferred. To the extent administratively feasible, the value of  
4 unused leave which was transferred by more than one employee shall be  
5 returned on a pro rata basis.

6 (10) An employee who uses leave that is transferred to him or her  
7 under this section may not be required to repay the value of the leave  
8 that he or she used.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.79 RCW  
10 to read as follows:

11 The uniformed service shared leave pool account is created in the  
12 custody of the state treasurer. All receipts from leave donated under  
13 the uniformed service shared leave pool under section 1 of this act and  
14 any moneys appropriated or otherwise provided must be deposited into  
15 the account. Expenditures from the account may be used only for  
16 providing shared leave to employees under the uniformed service shared  
17 leave pool. Only the adjutant general or his or her designee may  
18 authorize expenditures from the account. The account is not subject to  
19 allotment procedures under chapter 43.88 RCW, and no appropriation is  
20 required for expenditures.

21 NEW SECTION. **Sec. 4.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 July 1, 2007.

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